



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 28 2009

REPLY TO THE ATTENTION OF:
AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kevin B. Jacob, President
Laminated Products, Inc.
5718 52nd Street
Kenosha, Wisconsin 53114

Dear Mr. Jacob:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves case docket number CAA-05-2009-0017 with Laminated Products, Inc. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on APR 28 2009.

Pursuant to paragraph 31 of the CAFO, Laminated Products, Inc. must pay the civil penalty within 30 days of the date the CAFO is filed. Your check must display the case docket number, CAA-05-2009-0017, and the billing document number, 2750903A018.

Please direct any questions regarding this case to Padmavati Bending, Associate Regional Counsel, (312) 353-8917.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bonnie Bush".

Bonnie Bush, Chief
Air Enforcement & Compliance Assurance Branch
(MI/WI Section)

Enclosure

cc: Padmavati Bending

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

RECEIVED
APR 28 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:)	Docket No.
)	CAA-05-2009-0017
Laminated Products, Inc.)	Proceeding to Assess a Civil Penalty
Kenosha, Wisconsin)	Under Section 113(d) of the Clean Air
)	Act, 42 U.S.C. § 7413(d)
Respondent.)	
_____)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Laminated Products, Inc., a corporation doing business in Wisconsin.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in the CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. On November 13, 2001, EPA approved Wis. Admin. Code NR Chapter 423.035, "Industrial Cleaning Operations," as part of the federally enforceable state implementation plan (SIP) for Wisconsin. 66 *Fed. Reg.* 56931 on November 13, 2001.

10. Wis. Admin. Code NR 423.035(1)(a) states that this rule applies to industrial cleaning operations at facilities which are located in Kenosha, Milwaukee, Ozaukee, Racine, Washington or Waukesha County and have maximum theoretical emissions (MTE) of volatile organic compounds (VOCs) from the facility, excluding any MTE of VOCs specifically subject to NR 419.05, 419.06 or 419.08, ch NR 420, 421, or 422, or s. 423.03, 423.05, 424.04 or 424.05, of 25 tons per year or more.

11. Wis. Admin. Code NR 423.035(9)(a) states that to determine applicability under NR 423.035(1), each owner or operator of an industrial cleaning operation at a facility located in Kenosha, Milwaukee, Ozaukee, Racine, Washington or Waukesha County shall maintain records of the MTE of VOCs from the facility, excluding any MTEs of VOCs specifically subject to NR 419.05, 419.06 or 419.08, ch NR 420, 421, or 422, or s. 423.03, 423.05, 424.04 or 424.05.

12. Wis. Admin. Code NR 423.035(3)(a)(3) specifies a VOC content limit for solvents and solvent solutions used in industrial cleaning operations of 3.8 lb per gallon for general cleaning activity and 5.8 lb per gallon for polyvinylchloride surfaces.

13. Section 113(a)(1-3) of the Act, 42 U.S.C. § 7413(a)(1-3), authorizes the Administrator of EPA (the Administrator) to initiate an enforcement action whenever, on the basis of any available information, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of, among others, any implementation plan or permit, Title I or Title V of the Act, or any rule promulgated, issued, or approved under Title I or Title V of the Act.

14. The Administrator may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

15. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

16. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

17. Respondent owns and operates the Kenosha facility located at 5718 52nd Street, Kenosha, in Kenosha County, Wisconsin.

18. Respondent is a manufacturer of laminated kitchen countertops, cultured marble vanity tops, cabinets and vanity sink tops.

19. On May 21, 2007, Wisconsin Department of Natural Resources (WDNR) conducted a full compliance evaluation.

20. On August 15, 2007, WDNR issued Respondent a Notice of Violation letter.

21. On June 26, 2008, EPA issued Respondent a Notice of Violation letter.

22. On July 23, 2008, EPA met with Respondent to discuss the alleged violations.

23. Respondent submitted additional information to EPA concerning the timeline of an emission limit request to the renewal of the Respondent's Title V air operating permit.

24. Respondent supplied a letter dated August 27, 2007, addressed to WDNR requesting cleaning solvent VOC limits, to end the applicability with Wis. Admin. Code NR Chapter 423.035.

25. The renewed Title V operating permit, with the requested cleaning solvent emission limits was issued to the Respondent on December 17, 2007.

26. Respondent has been using 100 percent toluene and denatured alcohol as cleaning solvents to wipe off residual glue from fabricated cabinets since they began plant operation.

27. Respondent used approximately 1,595 gallons of toluene and 60 gallons of denatured alcohol between January 1, 2004 and August 1, 2007. The Material Safety Data Sheet showed the volatile organic compound (VOC) content of toluene to be 7.24 lb per gallon and the VOC content of denatured alcohol to be 6.60 lb per gallon.

28. The Respondent's MTE of VOCs in Wis. Admin. Code NR 423.035(1) exceeded the applicability threshold of 25 tons per year for Kenosha County, until the issuance of the renewed Title V operating permit on December 17, 2007.

29. Respondent was in violation of Wis. Admin. Code NR 423.035(3)(a)(3), which specifies a 3.8 lb of VOC per gallon limit for general cleaning activity, and 5.8 lb of VOC per gallon limit for polyvinylchloride surfaces.

Civil Penalty

30. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and the Respondent's cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$5,000.

31. Within 30 days after the effective date of this CAFO, Respondent must pay a \$5,000 civil penalty by sending a cashier's or certified check payable to the "Treasurer, United States of America," to:

For checks sent by regular U.S. Postal Service mail:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Or, for checks sent by express mail:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

The check must note the following: the case name (*In the matter of Laminated Products, Inc.*), the docket number of this CAFO and the billing document number.

32. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send

a copy of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-13J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Padmavati Bending, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

33. This civil penalty is not deductible for federal tax purposes.

34. If Respondent does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

35. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties

and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

36. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

37. The CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

38. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 36, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

39. Respondent certifies that it is complying fully with its Title V Permit No. 230012530-P11.

40. This CAFO constitutes an "enforcement response" as that term is used in EPA's *Clean Air Act Stationary Source Civil Penalty Policy* to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

41. The terms of this CAFO bind Respondent, its successors, and assigns.

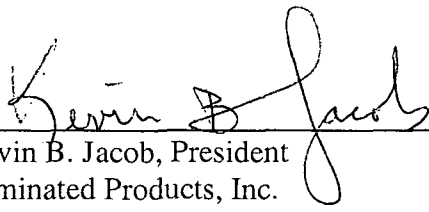
42. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

43. Each party agrees to bear its own costs and attorneys' fees in this action.

44. This CAFO constitutes the entire agreement between the parties.

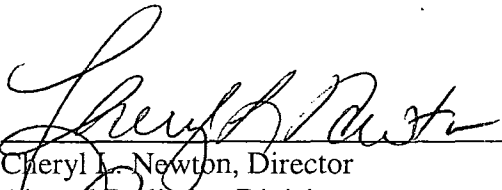
Laminated Products, Inc., Respondent

4-16-09
Date


Kevin B. Jacob, President
Laminated Products, Inc.

U.S. Environmental Protection Agency, Complainant

4/24/09
Date


Cheryl L. Newton, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of:

Laminated Products, Inc.

Docket No. CAA-05-2009-0017

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

4/27/09

Walter W. Karalich
Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5

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CONSENT AGREEMENT AND FINAL ORDER

Laminated Products, Inc.

CAA-05-2009-0017

Certificate of Service

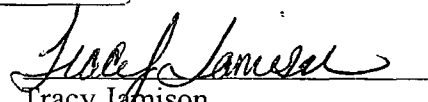
I certify that I filed the original and one copy of the Consent Agreement and Final Order in this matter with the Regional Hearing Clerk (E-13J), United States Environmental Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, that I mailed by Certified Mail, Receipt No. [], the second original to Respondent, addressed as follows:

Kevin B. Jacob, President
Laminated Products, Inc.
5718 52nd Street
Kenosha, Wisconsin 53114

and that I mailed a correct copy by first class, United States mail, addressed as follows:

Honorable Judge Moran
United States Environmental Protection Agency
Office of Administrative Law Judges
Mailcode 1900L/Ariel Rios Building
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

On the 28 day of April, 2009.


Tracy Jamison
Office Automation Clerk
AECAS, (MI/WT)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 8919 2782

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APR 28 2009

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U.S. ENVIRONMENTAL
PROTECTION AGENCY**